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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

THE PEOPLE,

Plaintiff and Respondent,

v.

LAURA MERIDEL DEBELL RISDAL,

Defendant and Appellant.

H043219

(Santa Clara County

Super. Ct. Nos. CC822622, CC932166)

In two cases below, defendant Laura Meridel Debell Risdal pleaded guilty to grand theft and no contest to felony petty theft with a prior conviction. The trial court granted a three-year term of probation. In 2012, after Risdal successfully completed probation, the trial court set aside her pleas and dismissed the cases under Penal Code section 1203.4.¹ Risdal later petitioned the court to designate the offenses as misdemeanors under Proposition 47, but the trial court denied the petitions.

Based on this court's opinion in *People v. Tidwell* (2016) 246 Cal.App.4th 212 (*Tidwell*), Risdal appeals from the denial of her petitions to designate her convictions as misdemeanors. The Attorney General concedes, and we accept the concession. We will reverse the orders denying the petitions.

I. BACKGROUND

The facts of the underlying offenses are immaterial to this appeal.

¹ Subsequent undesignated statutory references are to the Penal Code.

In 2008, in case No. CC822622, the prosecution charged Risdal with grand theft of personal property valued at more than \$400 (§§ 484, 487, subd. (a)). She pleaded guilty to the count as charged in exchange for a term of six months. In 2009, in case No. CC932166, the prosecution charged her with petty theft with a prior conviction (§ 666). The complaint further alleged she had been released from custody on bail at the time of the offense (§ 12022.1). She pleaded no contest to the count as charged and admitted the enhancement. The trial court suspended imposition of sentence and granted a three-year term of probation in both cases with six months in county jail. In 2012, the trial court found Risdal had successfully completed probation, and the court set aside the verdicts in both cases under section 1203.4.

In 2015, Risdal petitioned to designate the offenses as misdemeanors under section 1170.18. The prosecution stipulated that both offenses were eligible for relief under Proposition 47. Nonetheless, the trial court denied both petitions on the ground that the convictions had already been expunged. In 2016, Risdal moved for reconsideration of both denials, but the trial court denied the motions. Risdal timely appealed.

II. DISCUSSION

Risdal contends the trial court erred in denying her petitions to designate the two theft offenses as misdemeanors under Proposition 47. For this proposition, she relies on *Tidwell, supra*, 246 Cal.App.4th 212, in which this court held that the dismissal of felony charges under section 1203.4 did not preclude the subsequent designation of the offense as a misdemeanor under Proposition 47. The Attorney General concedes that *Tidwell* requires us to reverse the denial of Risdal's petitions.

The concession is well-taken. In *Tidwell*, we looked to the relevant statutory language and concluded that a prior dismissal under section 1203.4 does not bar designating a felony offense as a misdemeanor under section 1170.18. (*Tidwell, supra*, 246 Cal.App.4th at p. 219.) The holding of *Tidwell* applies squarely to the circumstances of Risdal's cases. Accordingly, we will reverse the orders denying the petitions.

III. DISPOSITION

The orders denying the petitions to designate the offenses as misdemeanors under section 1170.18 are reversed, and the matter is remanded for further consideration of the petitions.

Greenwood, P. J.

WE CONCUR:

Grover, J.

Danner, J.

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